

## REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 47-53 have been added.

Claims 11, 20, 26, 31, 33, 37, 44 and 46 are requested to be cancelled without prejudice.

Claims 1, 7, 12, 16, 18, 21, 22, 27, 30, 32, 34, 35, 38-43 and 45 are currently being amended.

This amendment adds, changes, and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-10, 12-19, 21-25, 27-30, 32, 34-36, 38-43, 45 and 47-53 are now pending in this application.

In the Office Action, the Examiner allowed Claims 34-36 and 38. The Examiner further indicated that Claims 7, 8, 11, 12, 18-21, 26, 30, 31, 33, 44 and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. The Applicants thank the Examiner for the indication of allowed claims and claims that would be allowable if rewritten in independent form.

## CLAIM AMENDMENTS

Claim 1 has been amended to include the limitations of Claim 11, which the Examiner has objected to. Claim 1 has further been amended to remove a listing of specific evaluation criteria. Based on the Examiner's allowance of Claim 34, Applicants do not believe that this listing is necessary for patentability. Reconsideration and withdrawal of the rejection of Claim 1 is respectfully requested.

Claims 2-10 and 12-15 depend from Claim 1 and include all of the limitations thereof. Accordingly, these claims are allowable for at least the same reasons as independent Claim 1. Reconsideration and withdrawal of the rejection of Claims 2-10 and 12-15 is respectfully requested.

Claim 16 has been amended to include the limitations of Claim 20 which the Examiner has objected to. Claim 16 has further been amended to remove a listing of specific evaluation criteria. Based on the Examiner's allowance of Claim 34, Applicants do not believe that this listing is necessary for patentability. Reconsideration and withdrawal of the rejection of Claim 16 is respectfully requested.

Claims 17-19 and 21 depend from Claim 16 and include all of the limitations thereof. Accordingly, these claims are allowable for at least the same reasons as independent Claim 16. Reconsideration and withdrawal of the rejection of Claims 17-19 and 21 is respectfully requested.

Claim 22 has been amended to include the limitations of Claim 26 which the Examiner has objected to. Claim 22 has further been amended to remove a listing of specific evaluation criteria. Based on the Examiner's allowance of Claim 34, Applicants do not believe that this listing is necessary for patentability. Reconsideration and withdrawal of the rejection of Claim 22 is respectfully requested.

Claims 23-25 depend from Claim 22 and include all of the limitations thereof. Accordingly, these claims are allowable for at least the same reasons as independent Claim 22. Reconsideration and withdrawal of the rejection of Claims 23-25 is respectfully requested.

Claim 27 has been amended to include the limitations of Claim 31 which the Examiner has objected to. Claim 27 has further been amended to remove a listing of specific evaluation criteria. Based on the Examiner's allowance of Claim 34, Applicants do not believe that this listing is necessary for patentability. Reconsideration and withdrawal of the rejection of Claim 27 is respectfully requested.

Claims 28-30 depend from Claim 27 and include all of the limitations thereof. Accordingly, these claims are allowable for at least the same reasons as independent Claim 27. Reconsideration and withdrawal of the rejection of Claims 28-30 is respectfully requested.

Claim 32 has been amended to include the limitations in objected to Claim 33. Claim 32 has been further amended to recite that the method further includes “storing optimization weighting data representative of the effect a respective evaluation criteria has on the generation of the ration data and generating the ration data further based upon the optimization weighting data.” Reconsideration and allowance of amended Claim 32 is respectfully requested.

Claim 34 has been amended to recite that the method further includes “storing optimization weighting data representative of the effect a respective evaluation criteria has on the generation of the ration data and generating the ration data further based upon the optimization weighting data.” Consideration and allowance of amended Claim 34 is respectfully requested.

Claim 35 has been amended to recite “at least one nutrient component” instead of “the nutrient components”. Applicants believe that e amendment is consistent with the subject matter in allowed Claim 34. Consideration and allowance of amended Claim 35 is respectfully requested.

Claim 38 has been amended to recite “at least one nutrient component” instead of “the nutrient components”. Applicants believe that e amendment is consistent with the subject matter in allowed Claim 34.. Consideration and allowance of amended Claim 38 is respectfully requested.

Claims 39-42 have been amended to add the limitation that “the nutrient profile data is representative of at least two nutrient components and the process further comprises the step of generating a set of ration data based upon variation data representative of a range for at least one nutrient component of the nutrient profile” The amendment is consistent with the

subject matter in allowed Claim 34. Consideration and allowance of amended Claims 39-42 is respectfully requested.

Claim 43 has been amended to include the limitations of Claim 44 which the Examiner has objected to. Claim 43 includes all of the limitations of Claim 44 in independent form. Reconsideration and withdrawal of the rejection of Claim 44 is respectfully requested.

Claim 45 has been amended to include the limitations of Claim 46 which the Examiner has objected to. Claim 45 includes all of the limitations of Claim 46 in independent form. Reconsideration and withdrawal of the rejection of Claim 45 is respectfully requested.

Claims 47-53 have been added. These claims are dependent on the various independent claims discussed above. No new matter has been added. These claims are allowable for at least the same reasons as the independent claims from which they depend. Entry and consideration of new Claims 47-53 is respectfully requested.

TERMINAL DISCLAIMER

Filed herewith, Applicants include a Terminal Disclaimer disclaiming the terminal part of the term of any patent granted on the present application which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent 6,681,717. Applicants wish to forestall any potential rejections for obviousness-type double patenting based on U.S. Patent 6,681,717. However, by filing this Terminal Disclaimer, Applicants do not affirmatively acknowledge that any claims should be subject to an obviousness-type double patenting rejection.

\* \* \* \* \*

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.


I request that all future correspondence with respect to this application be directed to:

Scott T. Piering  
Customer No.: **38550**

Registration No.: 42,075  
Telephone: 952.742.5301  
Facsimile: 952.742.6349  
E-Mail: Scott\_Piering@cargill.com

Respectfully submitted,

Date 9/22/04

By 

FOLEY & LARDNER LLP  
777 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202-5306  
Telephone: (414) 297-5684  
Facsimile: (414) 297-4900

Michael S. Brayer  
Attorney for Applicants  
Registration No. 51,495